

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**ORDER WRO 2004-0032-EXEC**

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In the Matter of the Diversion and Use of Water  
by  
**BOULDER CREEK GOLF AND COUNTRY CLUB INC.**

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SOURCE: Hare Creek and an Unnamed Stream both tributary to Boulder Creek thence  
San Lorenzo River

COUNTY: Santa Cruz

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**ORDER APPROVING SETTLEMENT AGREEMENT**

**BY THE EXECUTIVE DIRECTOR:**

**1.0 INTRODUCTION**

This matter comes before the Executive Director of the State Water Resources Control Board (SWRCB) following issuance of Administrative Civil Liability Complaint No. 262.5-27 (ACL Complaint), against the Boulder Creek Golf and Country Club, Inc. (BCGCC). The SWRCB's Division of Water Rights (Division) and BCGCC have agreed to settle this matter in lieu of proceeding to hearing in accordance with the attached Settlement Agreement. The issuance of an order or decision pursuant to a settlement agreement is authorized under Government Code section 11415.60.

**2.0 BACKGROUND**

BCGCC owns and operates Hare Reservoir Nos. 1 and 2, located on Hare Creek, and Reservoir No. 3, located on an unnamed stream known as Robin Hood Creek, for irrigation of an 18-hole golf course. BCGCC operates the irrigation system for the golf course by transferring water between the three reservoirs. Water in Hare Reservoir No. 2 is released through an outlet valve to Hare Reservoir No. 1. Water at Hare Reservoir No. 1 is pumped to irrigate 12 holes located west of Highway 236 or is gravity piped under Highway 236 to Reservoir No. 3. Water at Reservoir No. 3 is pumped to irrigate 6 holes located east of Highway 236.

License 8199 (Application 19877), which was issued on June 5, 1967, authorizes the collection to storage of 45 acre-feet of water from Hare Creek in Hare Reservoir No. 1. The season of diversion is October 1 of each year to May 1 of the succeeding year, and the authorized uses of water are irrigation of the Boulder Creek golf course and domestic use within the Big Basin Water Company service area. BCGCC does not provide water for domestic use.

Permit 18224 (Application 24172), which was issued on May 1, 1981, authorizes collection to storage of 61.5 acre-feet of water from Hare Creek in Hare Reservoir No. 2. The season of diversion is November 1 of each year to April 30 of the succeeding year, and the authorized uses of water are irrigation of the Boulder Creek golf course and domestic use within the Big Basin Water Company service area. BCGCC does not provide water for domestic use. Permit 18224 contains special terms (terms 13 through 18) to protect and maintain fishery resources and riparian habitat in Hare Creek, Boulder Creek, and the San Lorenzo River. BCGCC states that it has lost storage capacity in Hare Reservoir No. 2 due to sedimentation from upstream sources, and accordingly, has inadequate capacity to meet the release requirement of Permit 18224.

In 1966 BCGCC filed Statement of Water Diversion and Use No. 323, claiming a riparian right for the diversion and use of water from an unnamed stream (Robin Hood Creek) tributary to Boulder Creek.

Reservoir No. 3 serves a total of 22 acres (6 golf holes). The Division and BCGCC dispute whether 12 acres (3 golf holes Nos. 13, 14, 15 on APN 086-491-27) are riparian to Robin Hood Creek.

By certified mail dated July 23, 2003, the Division issued ACL Complaint No. 262.5-27 against BCGCC. The ACL alleges that BCGCC has operated an unauthorized reservoir located on an unnamed stream (Robin Hood Creek) tributary to Boulder Creek for more than 10 years; and BCGCC has failed to comply with the terms and conditions of Permit 18224, including failing to make required releases from storage to maintain specified downstream flows, failing to install and maintain year round measuring devices that are satisfactory to the SWRCB, failing to make any payment to the DFG for the replacement of 1,000 steelhead trout yearlings, and failing to

maintain and submit bimonthly records to the SWRCB, all constituting a trespass under Water Code section 1052.

By letter dated August 13, 2003, BCGCC's authorized representative requested a hearing on behalf of BCGCC to contest ACL Complaint No. 262.5-27.

### **3.0 SETTLEMENT AGREEMENT**

The Settlement Agreement requires BCGCC to pay \$5,000 to the SWRCB within 20 days of the effective date of the Settlement Agreement, file a petition for extension of time including payment of all applicable fees within 30 days of the effective date of the Settlement Agreement, file a petition for change including payment of all applicable fees within 30 days of the effective date of the Settlement Agreement, and comply with other timelines for completing specified tasks. If BCGCC fails to comply with the terms of the Settlement Agreement, Permit 18224, License 8199, and any other applicable provisions of law, the Division shall require and BCGCC agrees to immediately pay the remainder of the \$15,000 civil liability assessed in ACL Complaint No. 262.5-27. BCGCC agrees to rescind its request for a hearing dated August 13, 2003.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the attached Settlement Agreement between the Division and BCGCC is approved and hereby incorporated by reference into this Order.

Dated: June 28, 2004

*ORIGINAL SIGNED BY HARRY M. SCHUELLER for*  
Celeste Cantú  
Executive Director

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